THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

W.P.No.19404 of 2005

Date:05.09.2005

N.Satyanarayana

----------Petitioner

The Depot Manager.

----------Respondent

***ORDER*:**

Disciplinary proceedings were initiated against the petitioner, on the allegation that he assaulted another driver of the same Depot. An Enquiry Officer was appointed, and he, in turn, submitted a report on 17.06.2005 holding the petitioner guilty of the charge levelled against him. On receipt of the same, the respondent herein issued a show cause notice, dated 30.08.2005, directing the petitioner to show cause as to why the punishment of removal from service shall not be inflicted upon him. The petitioner challenges the same.

Sri D.Balakrishna Rao, the learned counsel for the petitioner submits that the respondent had made up his mind, in the matter of imposition of penalty, and that the show cause notice is only an empty formality.

Learned Standing Counsel for the respondent, Sri V.T.M.Prasad, on the other hand, submits that the very purpose of issuing the show cause notice is to enable the petitioner to put forward his contention and it cannot be said that the respondent had made up his mind.

Interference with a show cause notice in disciplinary proceedings is almost a rarity. It is only when the show cause notice is issued by an authority not vested with the power or when such other strong circumstances exist, that they would be interfered in writ petitions. The necessity for the respondent, to

indicate the punishment arose in the context of the procedure. In case, a minor punishment is proposed, the necessity to issue show cause notice does not arise. On the other hand, if a major punishment is proposed, the disciplinary authority has to seek explanation of the delinquent employee.

If the petitioner is of the view that the finding recorded against him in the enquiry report is not serious enough, or that it suffers from any infirmity or illegality, he can certainly point out the same in his explanation to the respondent. There is absolutely no basis to assume that the respondent does not consider the explanation that may be offered by the petitioner and that the punishment would be imposed as a matter of course.

For the foregoing reasons, the writ petition is disposed of, leaving it open to the petitioner to put forward all his contentions in his explanation to the respondent and he, in turn, shall consider the same before any punishment is inflicted upon the petitioner. The petitioner shall be entitled to submit his explanation, within a period of one week from today. There shall be no order as to costs.

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05.09.2005

Note: Issue C.C. in three days.

(B/o)

Jsu

Issue C.C. in three days.